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Joint written statement* submitted by the Freemuse - The World Forum on Music and Censorship, International PEN, non-governmental organizations in special consultative status, the Article 19 - International Centre Against Censorship, a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[27 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Selection and appointment of new mandate holder of special rapporteur in the field of cultural rights*

Summary:
ARTICLE 19, FreeMuse, and PEN International submit this joint written statement on behalf of the signatories*.

At the 30th Session of the Human Rights Council (HRC), 14 September – 2 October 2015, the President of the HRC will appoint a new Special Rapporteur in the field of cultural rights [HRC res. 19/6]. The deadline for nominations is 18 June 2015.

We emphasise that commitment to the universal application of human rights, relevant experience, competence, independence and personal integrity should be obligatory requirements for any individual to be considered an eligible candidate for this mandate. While it is not necessary for a candidate to meet every specification listed below, the strongest candidates should meet a substantial number of them.

- We call on all stakeholders to disseminate widely information about the vacancy for the Special Rapporteur in the field of cultural rights and encourage the use of this checklist to identify eligible candidates for the vacancy;
- We urge Governments to consult with civil society so as to ensure that highly qualified candidates apply;
- We encourage the Council's Consultative Group and the Council's President to use this checklist in their effort to ensure that only highly qualified and independent candidates are proposed and the best candidate is appointed.

I. Checklist for selection of candidates for mandate of Special Rapporteur in the field of cultural rights

According to HRC resolution 5/1, Annex, the following general criteria will be of paramount importance while nominating, selecting and appointing mandate holders:
- Expertise;
- Experience in the field of the mandate;
- Independence;
- Impartiality;
- Personal integrity;
- Objectivity.

Due consideration should be given to gender balance and equitable geographic representation, and to an appropriate representation of different legal systems. Eligible candidates should be highly qualified individuals who possess established competence, relevant expertise and extensive professional experience in the field of human rights (HRC Res. 5/1, at paras. 39-41).

1. Independence:

According to HRC Resolution 5/1, 'individuals holding decision-making positions in Government or in any other organisation or entity which may give rise to a conflict of interest with the responsibilities inherent to the mandate shall be excluded.'[1]

At a minimum, this requires independence of prospective mandate holders from any governments, or relevant intergovernmental organisations, or businesses or other entities, that may be the subject of a communication or mission within the terms of the Special Rapporteur in the field of cultural rights' mandate.

Candidates should disclose any past or present links with the executive of governments, businesses, or other entities that might give rise to a conflict of interest. The conflict of interest provision has also been interpreted to mean that

[1] HRC res. 5/1, at para. 46.

candidates are expected to clarify how, if appointed, they would deal with any perceived or actual conflict of interest in relation to governments, intergovernmental organisations, or non-governmental organisations.

2. Qualifications & expertise:
The HRC has adopted technical and objective requirements for candidates eligible for special procedures mandates.[2]

The following checklist is intended as an interpretive aid for those requirements:

a. Qualifications (and skills): relevant educational qualifications or equivalent professional experience in the field of cultural rights.

Checklist:

- A post-graduate university degree or equivalent professional experience in law, social sciences or a discipline directly related to the field of cultural rights, with a sound knowledge of the international human rights framework, would be highly desirable;

- Academic publications or other published material (articles, studies, reports, research papers or any similar written material demonstrating in-depth knowledge) addressing issues relevant to the mandate, from a human rights perspective;

- Excellent oral and written communication skills in at least one of the UN working languages (English, French and Spanish). Knowledge of other widely-used or official UN languages, such as Arabic, Chinese or Russian, would also be an asset;

- Extensive experience in public speaking as well as in communicating with relevant stakeholders at a senior level, including governments, inter-governmental organisations, national human rights institutions, non-governmental organisations, the business community, organizations working in the field of cultural rights and the media.

b. Relevant expertise: knowledge of international human rights instruments, norms and principles, in particular those in the field of cultural rights; knowledge of institutional mandates related to the United Nations or other international or regional organisations' work in the field of the mandate; proven work experience in the field of human rights.

Checklist:

- Extensive knowledge of international human rights law and standards, including the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions;

- At least 5 years of progressively responsible work experience in human rights including cultural rights, in particular the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress and its applications and respect for cultural diversity;

- Excellent knowledge of the international and regional human rights frameworks, case law and current trends in the field of cultural rights, in particular the relationship between the right of everyone to take part in cultural life and to enjoy the benefits of scientific progress and its applications, and all other human rights;

- Practical experience in promoting and protecting the cultural rights and their applications, including where there may be perceived or actual tensions with other individual rights or collective interests, particularly in the context of new technologies;

c. Established competence: nationally, regionally or internationally recognised competence related to human rights.

[2] HRC Decision 6/102

Checklist:

- Demonstrated commitment to and experience in the universal application of human rights law, standards and values without discrimination, in particular that cultural diversity may not be invoked to infringe upon human rights guaranteed by international law, nor to limit their scope;

- Recognised knowledge and expertise in responding to developments and challenges in the field of cultural rights, in particular a deep understanding of how new technologies impact human rights, including cultural rights, in particular freedom of artistic and cultural creation and expression, and open access to culture and knowledge;

- Experience at national, regional and international level of developing and critically analysing legislation, policies and mechanisms for the protection and promotion of human rights including cultural rights, and in creating a safe and enabling environment for the exercise of these rights, including addressing issues related to intimidation, reprisals and impunity;

- Extensive experience with and proven commitment to working and/or interacting with individuals, groups and civil society whose cultural rights may have been violated or restricted;

- Proven awareness of the particular challenges and risks specific individuals and groups may face and their particular protection needs when exercising their cultural rights, including: artists and all those engaged in artistic activities, creators, curators, journalists and media workers, writers and bloggers; human rights defenders; women; ethnic, religious and linguistic minorities; non-nationals, migrants, refugees and internally displaced people; indigenous people; lesbian, gay, bisexual, transgender and intersex people; members of political opposition groups; persons with disabilities; people in a disadvantaged socioeconomic situations, and people who experience age discrimination;

- Experience in interacting with actors whose work directly impacts on the enjoyment of human rights including cultural rights, in particular freedom of cultural and artistic creation and expression, such as:
    - all branches of government, including legislators, the judiciary, ministers, and civil servants;
    - law enforcement agencies;
    - national human rights institutions and equality bodies;
    - relevant regulatory or administrative bodies, in particular those exercising control over public spaces or access to other public resources for the promotion and protection of cultural rights, as well as classification bodies, media regulatory authorities, arts councils, research councils and bodies, advertising regulators, and intellectual property authorities;
    - artistic, cultural and scientific institutions and associations, including: museums, art galleries, cinemas, theatres and other performance venues; universities, schools, and other education bodies; relevant professional bodies, and cultural and scientific industries;

- Experience in the development and delivery of assistance/capacity building in the field of cultural rights, including the training of professionals and other officials responsible for the protection and promotion of cultural rights;

- Experience in conducting human-rights based research and fact-finding missions;

d. Flexibility/readiness and availability of time to perform effectively the functions of the mandate and to respond to its requirements, including conducting visits, preparing reports and attending Human Rights Council and General Assembly sessions.

Checklist:

- Willingness and ability to conduct in-country investigations, in all regions of the world, into policies, legislation and practices affecting the enjoyment of human rights including cultural rights

- Energy, determination and vision to promote and protect cultural rights wherever they are at risk, and a strong and independent personality ready to fulfill the mandate professionally in the face of political pressures;

- A demonstrated commitment to human rights in general, and a commitment to uphold the integrity, independence and impartiality of the Special Rapporteur's mandate and the special procedures system as a whole;

- Willingness and ability to devote a substantial proportion of working hours to fulfilling the mandate, which includes undertaking two country missions per year, preparing and presenting reports to the Human Rights Council and the General Assembly, attending seminars and other UN meetings;

- Willingness and ability to act urgently and efficiently on cases or situations requiring immediate attention.

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*Art Moves Africa; Khaidja el Bannaoui Arts Rights Justice EU Working Group; Center for Art and Politics; Culture Action Europe; European Music Council; European Off Network; ICORN; IDEA Europe; IETM (International Network for Contemporary Performing Arts); IFCCD, International Federation; IG FreieTheaterarbeit Austria; International Federation of Actors; ITI Action Committee for Artists Rights; Latin American Network on Art for Social Transformation; Roberto Cimetta Fund; and, UNESCO Chair in Cultural Policy for the Arts in Development, Daniel Gad, NGOs without consultative status, also share the views expressed in this statement.